

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS**

ANDREW J FOSTER
Claimant

UNITED PARCEL SERVICE
Employer

APPEAL 21A-UI-16301-DG-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

**OC: 05/09/21
Claimant: Appellant (2)**

Iowa Code § 96.5(1) – Voluntary Quitting
Iowa Admin. Code 871-24.26(4) – Intolerable Work Conditions

STATEMENT OF THE CASE:

Claimant filed an appeal from a decision of a representative dated July 19, 2021 (reference 01) that held claimant ineligible for unemployment insurance benefits. After due notice, a hearing was scheduled for and held on September 15, 2021. Claimant participated. Employer failed to respond to the hearing notice and did not participate. The administrative law judge took official notice of the administrative record including the fact-finding documents.

ISSUES:

The issue in this matter is whether claimant quit for good cause attributable to employer.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds: Claimant last worked for employer on April 30, 2021. Claimant left the employment on that date because his work environment had become intolerable.

Claimant began working for employer as a part-time package handler in October 2019. Claimant received on the job training, and he was given a copy of employer's rules and policies at the time of hire.

In early April 2021 claimant began to notice that employer was disregarding its own safety rules, and claimant did not feel safe at work. On or about April 4, 2021 there was a liquid spill in a truck trailer. Under employer's safety rules all unknown liquid spills are treated as hazardous, and a hazmat team is supposed to clean up the fluid before any work can be done. Claimant was told by his supervisor that truck needed unloaded immediately, and that he needed to disregard the safety rules and unload the truck. Claimant reluctantly complied with his supervisor's request on that date.

On April 7, 2021 claimant was instructed to move a package that weighed over 160 pounds by hand. Under employer's rules employees are admonished not to lift anything over 70 pounds.

Claimant was told get a co-worker if he needed help. Employer did not provide a mechanical lift or any assistance.

Claimant sustained multiple injuries lifting boxes that weighed over 70 pounds, and he was exposed to unknown liquids and substances in April 2021. On April 30, 2021 claimant decided that he had to leave the employment because he did not feel safe at work. Claimant left the employment on that date, and he did not return.

REASONING AND CONCLUSIONS OF LAW:

The administrative law judge holds that the evidence has established that claimant voluntarily quit for good cause attributable to employer when claimant terminated the employment relationship because his work environment had become intolerable.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits:

1. *Voluntary quitting.* If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

- (4) The claimant left due to intolerable or detrimental working conditions.

A notice of an intent to quit had been required by *Cobb v. Emp't Appeal Bd.*, 506 N.W.2d 445, 447-78 (Iowa 1993), *Suluki v. Emp't Appeal Bd.*, 503 N.W.2d 402, 405 (Iowa 1993), and *Swanson v. Emp't Appeal Bd.*, 554 N.W.2d 294, 296 (Iowa Ct. App. 1996). Those cases required an employee to give an employer notice of intent to quit, thus giving the employer an opportunity to cure working conditions. However, in 1995, the Iowa Administrative Code was amended to include an intent-to-quit requirement. The requirement was only added to rule 871-24.26(6)(b), the provision addressing work-related health problems. No intent-to-quit requirement was added to rule 871-24.26(4), the intolerable working conditions provision. Our supreme court concluded that, because the intent-to-quit requirement was added to Iowa Admin. Code r. 871-24.26(6)(b) but not 871-24.26(4), notice of intent to quit is not required for intolerable working conditions. *Hy-Vee, Inc. v. Emp't Appeal Bd.*, 710 N.W.2d 1 (Iowa 2005).

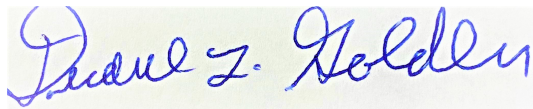
Claimant sustained multiple injuries lifting boxes that weighed over 70 pounds, and he was exposed to unknown liquids and substances in April 2021. Claimant left the employment because his work environment was intolerable, his separation from employment was for a good-cause reason attributable to the employer. Benefits are allowed.

Note to Claimant: This decision determines you are not eligible for regular unemployment insurance benefits. If you disagree with this decision, you may file an appeal to the Employment Appeal Board by following the instructions on the first page of this decision. Individuals who do not qualify for regular unemployment insurance benefits due to disqualifying separations, but who are currently unemployed for reasons related to COVID-19 may qualify for Pandemic Unemployment Assistance (PUA). **You will need to apply for PUA to determine your eligibility under the program.** Additional information on how to apply for PUA can be found

at <https://www.iowaworkforcedevelopment.gov/pua-information>. If this decision becomes final, or if you are not eligible for PUA, you may have an overpayment of benefits.

DECISION:

The decision of the representative dated July 19, 2021 (reference 01) is reversed. Unemployment insurance benefits are allowed provided claimant is otherwise eligible.



Duane L. Golden
Administrative Law Judge

September 24, 2021
Decision Dated and Mailed

dlg/kmj